

Appl. No. 10/695,282  
Docket No. 9083M&  
Amdt. dated 1/5/07  
Reply to Office Action mailed on 12/5/06  
Customer No. 27752

#### REMARKS/ARGUMENTS

Claims 1-3, 5-13 and 22-23 are under consideration. Claims 14-21, 24 and 25 were previously cancelled as redundant in view of the amendments presented.

Claim 1 has been corrected to re-insert the structural formula, wherein T = carboxyl, Z = CH<sub>2</sub> and z = 2.

Claim 1 recites the pH range at which the polymeric particle has a net cationic charge by virtue of said monomer(s) being protonated. (Page 17, lines 8-15.) Claim 1 also recites the particle size range. (Page 15, line 11.)

It is submitted that the correction and all previous amendments are fully supported and entry is requested.

#### Formal Matters

For the record, there are no objections or rejections under 35 USC 112 outstanding.

#### Double-Patenting

The provisional double patenting rejection is again noted. However, the Examiner is respectfully requested to reconsider this matter, in view of the correction to Claim 1 presented herein and the claim amendments presented 11/14/06.

#### Rejections Under 35 USC 103

Claims 1-3, 5-16 and 18-25 stand rejected over EP 925,776 for reasons of record at page 2 and in the previous Office Action.

Applicants respectfully traverse all rejections to the extent they may apply to the current claims.

Indeed, with regard to the claims now under consideration, it is submitted that the cited '776 document does not, on its face, support the Examiner's burden to establish a *prima facie* case of obviousness. MPEP 2142.

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According to *In re Vaeck*, 20 USPQ2d 1438:

*To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.*

Clearly, '776 does not suggest the particle size range recited herein. '776 merely states (page 4, lines 47-48) "The resulting polymer was ground to small particles in a mechanical mixer." Nothing therein can be said to fairly teach or suggest the particle size range of the present claims.

Moreover, '776 does not suggest the monomers encompassed by the amended claims. While "quaternarized ammonium alkyl (meth)acrylates" are noted (page 4, line 6) these would appear to be "hard" quats. The present invention does not employ hard quats. Rather, the monomers herein are cationic by virtue of being protonated within the range of about pH 2-8. Use of such materials in place of the hard quats of '776 is not fairly suggested under *Vaeck*, *ibid*.

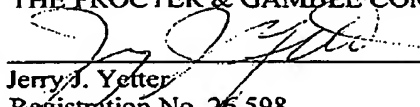
Net: Since '776 suggests neither the size nor the constituents of the present polymers, it is submitted that the rejections under §103 should be withdrawn.

In light of the foregoing, early and favorable action in the case is requested

Respectfully submitted,

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